ANNUAL REPORT
OF THE
ALTERNATIVE DISPUTE RESOLUTION COORDINATING COMMITTEE
TO THE ILLINOIS JUDICIAL CONFERENCE

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I. STATEMENT OF COMMITTEE CONTINUATION

Since the 2002 Annual Meeting of the Illinois Judicial Conference, the Alternative Dispute Resolution Coordinating Committee ("Committee") has found that the climate for alternative dispute resolution ("ADR") continues to be favorable and the legal community has become increasingly receptive to ADR programs. This Conference year, the Committee was busy with many activities which are enumerated below.

Early in the year, the Committee finalized and sent for consideration an amendment proposal to the Supreme Court Rules Committee concerning Supreme Court Rule 94. The Committee also considered several other proposed amendments to Supreme Court Rules.

The Committee met with arbitration administrators and their supervising judges to discuss topics related to arbitration practice. Prior to this meeting, the Committee arranged for arbitration administrators to meet with the Committee liaison to assist in the development of an agenda comprised of arbitration issues to be discussed with the Committee.

As part of the Committee's charge, court-annexed mandatory arbitration programs operating in fifteen counties continued to be monitored throughout the Conference year.

In the area of mediation, the Committee continued to oversee the court-sponsored major civil case mediation programs operating in seven circuits. During State Fiscal Year 2003, more than 345 cases have been mediated through these programs statewide.

During the 2004 Conference year, the Committee plans to continue to monitor the court-annexed mandatory arbitration programs, to oversee and facilitate the improvement and expansion of major civil case mediation programs, to monitor proposed amendments to Supreme Court Rules for mandatory arbitration, and to continue to study and evaluate other alternative dispute resolution options.

Because the Committee continues to provide service, recommendations, and information to Illinois judges and lawyers, as well as to monitor developments and the effectiveness of court-annexed and court-sponsored alternative dispute resolution programs, the Committee respectfully requests that it be continued.

II. SUMMARY OF COMMITTEE ACTIVITIES

A. Court-Annexed Mandatory Arbitration

As a part of its charge, the Committee surveys and compiles information on existing court-supported dispute resolution programs. Court-annexed mandatory arbitration has been operating in Illinois for a little more than sixteen years. Since its inception in Winnebago County in 1987, under Judge Harris Agnew's leadership, the program has steadily and successfully grown to meet the needs of fifteen counties. Most importantly, court-annexed mandatory arbitration has become an effective case management tool to reduce the number of cases tried and the length of time cases spend in the court system. Court-annexed mandatory arbitration has become widely

accepted in the legal culture.

In January of each year, an annual report on the court-annexed mandatory arbitration program is provided to the legislature. A copy of the Fiscal Year 2003 Annual Report which will be provided to the legislature is attached hereto as Appendix 1.[1] A complete statistical analysis for each circuit is contained in the Fiscal Year 2003 Report. The Committee emphasizes that it is best to judge the success of a program by the percentage of cases resolved before trial through the arbitration process, rather than focusing on the rejection rate of arbitration awards.

The following is a statement of Committee activities since the 2002 Annual Meeting of the Illinois Judicial Conference concerning court-annexed mandatory arbitration.

1. Consideration of Proposed Amendments to Supreme Court Rules

a. The Committee considered a proposal to amend Supreme Court Rule 94. The amended language would establish check boxes on the Award of Arbitrators form which would identify if the litigants in the arbitration process participated in good faith. This proposal addresses a letter submitted to the Committee by former Chief Justice Harrison which he received from a local arbitration program practitioner. The letter cited concerns about certain litigants rejecting awards as a matter of course and not participating throughout the arbitration process in good faith.

The amended Award of Arbitrators form was sent to the Supreme Court Rules Committee for final consideration. Committee members have provided additional validation for the necessity of this amendment to the Rules Committee and await final determination.

b. The Committee drafted a proposed amendment to Supreme Court Rule 87 (e) to increase the remuneration of arbitrators from $75 per hearing to $100 per hearing. The compensation level for arbitrators has not been adjusted for several years and the Committee believes that an increase consideration is appropriate.

The Committee is in the final stages of approving the proposal to amend Supreme Court Rule 87(e) and will subsequently forward it to the Supreme Court Rules Committee for consideration.

c. The Committee drafted a proposed amendment to Supreme Court Rule 90 by adding a new subsection that would eliminate discussion by arbitrators after an arbitration hearing, and throughout the entire process. It is believed that post-hearing discussion could result in *ex parte* communication. Specifically, the amended language would provide that an arbitrator may not be contacted, nor may an arbitrator publicly comment, nor respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of the case and until a final order is

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[1] The AOIC's Court-Annexed Mandatory Arbitration Fiscal Year 2003 Annual Report can be found on the AOIC portion of the Supreme Court website (www.state.il.us/court) and on the website of the Center for Analysis of Alternative Dispute Resolution Systems (www.caadrs.org).

entered and the time for rejection has expired notwithstanding discussion or comments between an arbitrator and judge regarding an infraction or impropriety during the arbitration process.

The Committee believes that litigants using feedback from arbitrators to make decisions as whether to reject or accept an award poses a practical problem. The Committee drafted language to amend Supreme Court Rule 90 and upon ratification of final language will submit a proposal to the Rules Committee for consideration.

d. The Committee considered a proposal to amend Supreme Court Rule 91 (a) by adding language that would require parties in subrogation cases to be present in person at the arbitration hearing. Specifically, the additional language would be substantially the following: "for purposes of arbitration hearings in causes of action concerning subrogation, the insured and/or the driver of the vehicle shall be considered parties under Supreme Court Rule 90 (g) even when this cause of action is filed in the name of the insurance company." Also, this amendment proposal would simultaneously remove the existing language allowing parties to be present at an arbitration hearing "either in person or by counsel" and add language for an exception under the court's discretion.

The Committee plans to finalize this proposal by the end of Conference Year 2003 and submit amended Supreme Court Rule 91 (a) to the Rules Committee for consideration.

e. The Committee drafted language to amend Supreme Court Rule 93 (a) by increasing the rejection rate associated with arbitration program fees. Currently, the rejection rates are set at $200 for awards of $30,000 or less and $500 for awards greater than $30,000. The rejection fees have not been adjusted since the inception of the program and it is hoped that increasing the rejection fees would help eliminate frivolous rejections and improve the efficacy of the program.

The amended language would increase the rejection rate from $200 to $300 for awards of $30,000 or less. The Committee believes that $500 for awards greater than $30,000 is adequate and elected not to amend this part of Rule 93 (a) at this time. The Committee is preparing the final details of this proposal and will subsequently submit the proposal to the Rules Committee for consideration.

f. The Committee drafted language to amend Supreme Court Rule 222 to defer discovery time lines to local rule. In accordance with Supreme Court Rule 89, many circuits that have mandatory arbitration programs have adopted local rules shortening the time for compliance with Supreme Court Rule 222. According to program participants and the observations of program administrators and supervising judges, attorneys are confused as to whether the benchmark of 120 days for discovery applies or if local rule preempts with a shortened time frame.

Supreme Court Rule 89 provides that "discovery may be conducted in accordance with established rules and shall be completed prior to the arbitration hearing. However, such discovery shall be conducted in accordance with Rule 222, except that the time lines may be shortened by local rule."

The Committee is in the process of considering language to amend Supreme Court Rule 222. One of the proposals under deliberation would strike the existing language regarding 120 days and defer to local rule. It is hoped that the final language approved by the Committee would eliminate the confusion among counsel as to whether the benchmark of 120 days still applies thereby requiring counsel to understand dictates of local rules and eliminate the ability of non-complying counsel to merely state that they agreed to extend the time for disclosure without court approval.

2. Meeting with Supervising Judges and Arbitration Administrators

Stemming from a meeting with mandatory arbitration supervising judges and arbitration administrators in June 1998, it was requested that the Committee schedule future meetings for the administrators and the A.O.I.C. staff Committee liaison to meet and discuss plans and orders of business for the annual meeting with the Committee each year. The Committee thereby arranged for such a meeting to take place in Kane County for that year and each subsequent year.

In preparation for this year's meeting with the Committee, the arbitration administrators met at the Kane County Courthouse in March 2003. At that meeting, the arbitration administrators discussed items of concern with the operation of arbitration centers, including computer equipment and software needs to assist in the preparation of arbitration statistics, the possibility of a supplemental retraining for arbitrators, the removal of inadequate arbitrators from the circuit's list of arbitrators, and proposed amendments to Supreme Court Rules. The arbitration administrators assisted in the development of an agenda for the June 2003 annual meeting with the Committee.

On June 13, 2003, Committee members met with supervising judges and arbitration administrators at a meeting held in Chicago to discuss issues concerning the arbitration program and proposed rule amendments. Among the major topics of discussion were several suggestions for the Committee to consider regarding program improvements. The program practitioners made several suggestions regarding amendments to Supreme Court Rules, provided specific feedback particular to Committee inquiries, and provided valuable statistical information used in measuring the efficiency of the program. The Committee plans to follow through on several issues and meet periodically with the users of the program throughout the next Conference year.

3. Summary Jury Trials

The concept of summary jury trials was introduced to the Committee as a topic of discussion to study throughout the remainder of this Conference year and next. Summary jury trials are a specialized process designed to address high-end cases that are more complex and consume disproportionate amounts of court time and resources.

The Committee viewed a video presentation to become familiar with this form of alternative dispute resolution. According to information obtained from a former member of the New Jersey Judiciary, a significant portion of cases proceeding to summary jury trial settle. The Committee, through its initial study, has learned that summary jury trials should, at a minimum, have three conditions present to be an effective means of alternative dispute resolution: (1) it has to be clearly determined that the trial will consume a substantial amount of court time (minimum of two weeks); (2) must have counsel that tend to work reasonably well with each other; and (3) on the issue of liability, there is a reasonable likelihood that the plaintiff will prevail at trial.

During the remainder of Conference Year 2003 and next, the Committee plans to explore options in attempting to implement this type of alternative dispute resolution practice. Some of the options may include Supreme Court Rule proposals, enabling legislation, or local rule implementation. The Committee will continue to identify and examine other jurisdictions that successfully utilize the summary jury trial process and determine which practices might best accommodate a program in the state of Illinois.

B. Mediation

Presently, court-sponsored mediation programs continue to operate in the Eleventh, Twelfth, Fourteenth, Sixteenth, Seventeenth, Eighteenth, and Nineteenth Circuits[2] for cases in which *ad damnum* exceeds the limit for court-annexed mandatory arbitration. In addition to the circuits mentioned above, the Circuit Court of Cook County is currently in the process of drafting rules in accordance with Supreme Court Rule 99 to seek approval to begin operating a mediation program in their county.

During State Fiscal Year 2003, over 393 cases have gone through major civil case mediation statewide. These programs are designed to provide quicker and less expensive resolution of major civil cases.

A total of 345 cases were referred to mediation in the seven programs from July 1, 2002 through June 30, 2003. Of these, 189 resulted in a full settlement of the matter; 13 reached a partial settlement of the issues; and 143 of the cases that progressed through the mediation process did not reach an agreement at mediation. (See Appendix 2 for statistics on these programs.)

Court-sponsored mediation programs have been successful and well received, and have resulted in quicker resolution of many cases. It is important to recognize that the benefits of major civil case mediation cannot be calculated solely by the number of cases settled. Because these cases are major civil cases by definition, early settlement of a single case represents a significant savings of court time for motions and status hearings as well as trial time. Additionally, in many

[2]See Appendix 2 for a listing of counties in each circuit that operates a mediation program.

of these cases, resolving the complaint takes care of potential counterclaims, third-party complaints and, of course, eliminates the possibility of an appeal. Finally, court-sponsored mediation programs are considered by many parties as a necessary and integral part of the court system.

III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR

During the 2004 Conference year, the Committee plans to continue to monitor and assess the court-annexed mandatory arbitration programs, suggest broad-based policy recommendations, explore and examine innovative dispute resolution techniques, and to continue studying the impact of rule amendments. In addition, the Committee will continue to study, draft and propose rule amendments in light of the suggestions and information received from program participants, supervising judges and arbitration administrators.

The Committee also plans to oversee and facilitate the improvement and expansion of the major civil case mediation programs. The Committee also plans to actively study and evaluate other Alternative Dispute Resolution options.

IV. RECOMMENDATIONS

The Committee is making no recommendations to the Conference at this time.

2003 REPORT

APPENDIX 1

FISCAL YEAR 2003 ANNUAL REPORT TO THE ILLINOIS GENERAL ASSEMBLY ON COURT-ANNEXED MANDATORY ARBITRATION

INTRODUCTION

The Fiscal Year 2003 Annual Report of the court-annexed mandatory arbitration program is presented to satisfy the requirements of Section 1008A of the Mandatory Arbitration Act, 735 ILCS 5/2-1001A *et seq.*

The Supreme Court of Illinois and the Illinois General Assembly created court-annexed mandatory arbitration to reduce the backlog of civil cases and to provide litigants with a system in which their complaints could be more quickly resolved by an impartial fact finder.

Arbitration was instituted after deliberate planning. Efforts by the Supreme Court to devise a high quality arbitration system spanned nearly a decade. When developing the Illinois program, the Supreme Court and its committees secured the input of public officials representing all branches of Illinois government, as well as the general public. As a result, the system now in place is truly an amalgamation of the best dispute resolution concepts.

Beginning in September of 1982, Chief Justice Howard C. Ryan urged the judiciary to explore suitable court-sponsored alternative dispute resolution techniques. In September, 1985, the Illinois General Assembly passed and the Governor signed House Bill 1265[1], authorizing the Supreme Court to institute a system of mandatory arbitration. Before the end of May, 1987, the Supreme Court adopted arbitration-specific rules recommended by a committee of prominent judges and attorneys. Later that year, Winnebago County began operating a pilot court-annexed mandatory arbitration program.

Expanding on the success of the Winnebago County program, the Supreme Court authorized the following counties to implement court-annexed mandatory arbitration programs in the following order:

- Cook, DuPage, and Lake Counties in December, 1988
- McHenry County in November, 1990
- St. Clair County in May, 1993
- Boone and Kane Counties in November, 1994
- Will County in March, 1995
- Ford and McLean Counties in March, 1996

The most recent request for implementation of an arbitration program came from the 14th Judicial Circuit. In November of 1999, the Supreme Court approved the program for all four counties in the 14th Circuit (Rock Island, Henry, Mercer and Whiteside Counties) and the program began in October, 2000. Future expansion of court-annexed mandatory arbitration programs may occur if sufficient public funding is made available and with approval by the Supreme Court.

This Fiscal Year 2003 Annual Report summarizes the accomplishments of the arbitration

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[1]H.B. 1265, 83rd Gen. Assem., Reg. Sess., P.A. 84-844, (Il. 1985)

program from July 1, 2002 through June 30, 2003. The report begins with a general description of the court-annexed mandatory arbitration program in Illinois and provides information on recent changes made to the program. The second section of the report explains the statistics maintained by arbitration administrators. Statewide statistics are provided as an aggregate or average of the statistics furnished by the fifteen court-annexed mandatory arbitration programs operating around the state. Jurisdictions may have significantly different statistics. Therefore, when appropriate, individual program statistics are provided. The final section of the report provides information on the day-to-day operations of the court-annexed mandatory arbitration programs.

OVERVIEW OF COURT-ANNEXED MANDATORY ARBITRATION

In Illinois, court-annexed mandatory arbitration is a mandatory, non-binding form of alternative dispute resolution. In those jurisdictions approved by the Supreme Court to operate a court-annexed mandatory arbitration program, all civil cases filed seeking money damages within the program's jurisdiction are subject to the arbitration process. These modest sized claims are directed into the arbitration program because they are amenable to closer management and faster resolution using a less formal, alternative process.

Program Jurisdiction

Cases enter the arbitration program in one of two ways. In all counties operating a court-annexed mandatory arbitration program, except Cook County, litigants may file their case with the office of the clerk of the court as an arbitration case. The clerk records the case using an AR designation. These AR designated cases are placed directly on the calendar of the supervising judge for arbitration. Summons are returnable before the supervising judge for arbitration and all pre-hearing matters are argued before them. [2]

In the Circuit Court of Cook County, however, cases seeking between $5,000 and $50,000 in money damages are filed in the Municipal Department and are given an "M" designation by the clerk. Cases within this category which are arbitration-eligible (cases seeking up to $30,000 in money damages) are subsequently transferred to arbitration. After hearing all preliminary matters, the case is transferred to arbitration.

In all jurisdictions operating a court-annexed mandatory arbitration program, a case may also be transferred to the arbitration calendar from another calendar if it appears to the court that no claim in the action has a value in excess of the monetary limit authorized by the Supreme Court for that county's arbitration program. For example, if the court finds that an action originally filed as a Law case (actions seeking over $50,000) has a potential for damages under the jurisdiction for arbitration, the court may transfer the Law case to the arbitration calendar.

During Fiscal Year 1997, the Supreme Court amended a number of rules which affect arbitration. In November, 1996, the Supreme Court increased the jurisdictional limit for small claims actions from cases seeking up to $2,500 in damages to cases seeking up to $5,000 in damages, effective January 1, 1997. Concerns about enlarging the small claims calendar have led a number of counties operating arbitration programs to transfer cases seeking over $2,500 in money damages into arbitration.

Also in November, 1996, the Supreme Court acted on the request of the Eighteenth Judicial Circuit to increase the jurisdiction of arbitration-eligible cases from cases seeking up to $30,000 in money damages to cases seeking up to $50,000 in money damages. The Supreme

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[2] *See* Illinois Supreme Court Rule 86(d). The monetary limit for arbitration cases filed in Cook and Will Counties is $30,000. The monetary limit for arbitration cases filed in Boone, Du Page, Ford, Henry, Kane, Lake, Mc Henry, McLean, Mercer, Rock Island, Whiteside, and Winnebago Counties is $50,000. In St. Clair County, cases seeking up to $20,000 in money damages are subject to arbitration.

Court authorized the Eighteenth Judicial Circuit to increase the jurisdictional limit for arbitration-eligible cases as a pilot project.[3] During Fiscal Year 2002, the Supreme Court removed the pilot designation from Du Page County and the program now operates permanently at the $50,000 jurisdictional limit.

Pre-Hearing Matters

The pre-hearing stage for cases subject to arbitration is similar to the pretrial stage for cases not subject to arbitration. Summons are issued, motions are made and argued, and discovery moves forward. However, discovery is limited for cases subject to arbitration pursuant to Illinois Supreme Court Rules 222 and 89.

One of the most important features of the arbitration program is the court's control of the time elapsed from the date of filing of the arbitration case, or the transfer of the case to arbitration, and the arbitration hearing. Illinois Supreme Court Rule 88 provides that all arbitration cases must go to hearing within one year of the date of filing or transfer to arbitration. As a result, faster dispositions are possible in the arbitration system.

Arbitration Hearing

The arbitration hearing resembles a traditional trial conducted by a judge, but the hearing is conducted by a panel of three trained attorney-arbitrators. Each party to the dispute makes a concise presentation of his/her case to the attorney-arbitrators. The Illinois Code of Civil Procedure and the rules of evidence apply in arbitration hearings; however, Illinois Supreme Court Rule 90(c) makes certain documents presumptively admissible. These documents include bills, records, and reports of hospitals, doctors, dentists, repair persons, and employers as well as written statements of opinion witnesses. By taking advantage of this streamlined evidence mechanism, lawyers can present the case quickly and hearings are completed in approximately two hours.

Immediately after the hearing, the three arbitrators deliberate privately and decide the issues presented by the parties. They file their award on the same day as the hearing. To find in favor of one party, the concurrence of at least two arbitrators must be present and an award is determined.

After the arbitration hearing, the clerk of the court records the arbitration award and then forwards notice of the award to the parties. As a courtesy to the litigants, many of the arbitration centers post the arbitration award after it is submitted by the arbitrators so the parties will know the outcome on the same day as the hearing.

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[3]At the same time the Supreme Court amended Illinois Supreme Court Rule 93 to provide that parties wishing to reject an award of over $30,000 must pay a $500 rejection fee.

Rejecting an Arbitration Award

Illinois Supreme Court Rule 93 allows any party to reject the arbitration award. However, a party must meet four conditions when they seek to reject the award. First, the party who wants to reject the award must have been present, personally or via counsel, at the arbitration hearing or that party's right to reject the award will be deemed waived.[4] Second, that same party must have participated in the arbitration process in good faith and in a meaningful manner.[5] Third, the party wanting to reject the award must file a rejection notice within thirty days of the date the award was filed.[6] Finally, except for indigent parties, the party who initiates the rejection must pay a rejection fee of $200 to the clerk of the court.[7] The rejection fee is intended to discourage frivolous rejections. If these four conditions are not met, the party may be barred from rejecting the award and any other party to the action may petition the court to enter a judgment on the arbitration award.

After a party successfully rejects an arbitration award, the supervising judge for arbitration places the case on the trial call.

Appointment, Qualification, and Compensation of Arbitrators

The Supreme Court provides the rules that govern the mandatory arbitration program. The requirements of arbitrators and court-supported arbitration jurisdiction can be located in Supreme Court Rule 86 *et seq.*

Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference Activities

The Alternative Dispute Resolution Coordinating Committee is a Committee of the Illinois Judicial Conference which was created by the Supreme Court.

The charge of the Committee is to monitor and assess the court-annexed mandatory arbitration programs. The Committee also surveys and compiles information on existing court-supported dispute resolution programs, suggests broad-based policy recommendations, explores and examines innovative dispute resolution processing techniques, and studies the impact of proposed rule amendments. In addition, the Committee also works on drafting rule amendments

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[4] *See* Illinois Supreme Court Rule 91(a).

[5] *See* Illinois Supreme Court Rule 91(b).

[6] *See* Illinois Supreme Court Rule 93(a).

[7] *See* Illinois Supreme Court Rule 93. As noted earlier, the Supreme Court amended Rule 93 to mandate that when the arbitrators return an arbitration award of over $30,000 a party must pay $500 to reject the award.

in light of suggestions and information received from program participants, supervising judges, and arbitration administrators.

The Committee continues to monitor the effects of Supreme Court Rules on arbitration practice and will continue to provide direction for the successful implementation of the program.

FISCAL YEAR 2003 STATISTICS

Court-annexed mandatory arbitration has now been operating in Illinois for a little more than fifteen years. The statistics discussed below provide a detailed depiction of the continued success of the program.

Introduction

Statistics are maintained by each of the fifteen arbitration programs to ensure that the program is meeting its goals of reducing case backlog and providing faster dispositions to litigants. The arbitration calendar is divided into three stages for the collection of arbitration statistics. The stages are pre-hearing, post-hearing, and post-rejection. Close monitoring and supervision of events at each of these stages helps to determine the efficacy of the arbitration process. Each arbitration stage has its own inventory of cases pending at the beginning of each reporting period, its own statistical count of cases added and removed during each reporting period, and its own inventory of cases pending at the end of each reporting period.

Pre-Hearing Calendar

Cases at the first stage of the arbitration process, the pre-hearing stage, are cases that are pending an arbitration hearing. There are three sources from which cases are added to the pre-hearing calendar: new filings, reinstatements, and transfers from other calendars.

Cases may be removed from the pre-hearing arbitration calendar in either a dispositive or non-dispositive manner. A dispositive removal from the pre-hearing arbitration calendar is one which terminates the case prior to commencement of the arbitration hearing. There are generally three types of pre-hearing dispositive removals: the entry of judgment; some form of dismissal; or the entry of a settlement order by the court.

A non-dispositive removal of a case from the pre-hearing arbitration calendar may either remove the case from the arbitration calendar altogether or simply move it along to the next stage of the arbitration process. An example of a non-dispositive removal which removes the arbitration case from the arbitration calendar altogether is when a case is placed on a special calendar. A case assigned to a special calendar is removed from the arbitration calendar, but not terminated. For example, a case transferred to a bankruptcy calendar generally stays all arbitration-related activity and assignment to this special calendar is considered a non-dispositive removal from the arbitration calendar.

Another type of non-dispositive removal from the pre-hearing calendar is a transfer out of arbitration. Occasionally a judge may decide that a case is not suited for arbitration. The judge may then transfer the case to a more appropriate calendar. Finally, an arbitration hearing is also

a non-dispositive removal from the pre-hearing calendar.

Pre-Hearing Statistics

To reduce backlog and to provide litigants with the quickest disposition for their cases, Illinois' arbitration system encourages attorneys and litigants to focus their early attention on arbitration-eligible cases. Therefore, the practice is to set a firm and prompt date for the arbitration hearing so that disputing parties, anxious to avoid the time and cost of an arbitration hearing, have a powerful incentive to negotiate prior to the hearing. In instances where a default judgment can be taken, parties are also encouraged to seek that disposition at the earliest possible time.

Therefore, as cases move through the steps in the arbitration process, a sizeable portion of each court's total caseload should terminate voluntarily or by court order in advance of the arbitration hearing if the process is operating well. Fiscal Year 2003 statistics demonstrate that parties are carefully managing their cases, working to settle their disputes without significant court intervention, and settling their differences prior to the arbitration hearing.

During Fiscal Year 2003, 19,888 cases on the pre-hearing arbitration calendar were disposed through default judgment, dismissal, or some other form of pre-hearing termination.[8] Therefore, a statewide average of 50% of the cases referred to arbitration were disposed prior to the arbitration hearing.[9] While it is true that a large number of these cases may have terminated without the need for a trial, arbitration tends to induce disposition sooner in the life of most cases because firm arbitration hearing dates are set within one year of the case's entrance into the arbitration process.

Additionally, these terminations via court-ordered dismissals, voluntary dismissals, settlement orders, and default judgments typically require very little court time to process. To the extent that arbitration encourages these dispositions, the system helps save the court and the litigants the expense of costlier, more time consuming proceedings that might have been necessary without arbitration programs.

This high rate of pre-hearing terminations also allows each court to remain current with its hearing calendar and may allow the court to reduce a backlog. It is this combination of pre-hearing

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[8]Cases disposed during Fiscal Year 2003 will include those cases pending at the end of Fiscal Year 2002. Additionally, not all cases referred to arbitration during Fiscal Year 2003 will have disposition information available. Some cases are still pending. Therefore, the statistics provided in this report give the reader a snapshot of the progress of arbitration cases through June 30, 2003.

[9]This number is derived by dividing the number of cases disposed via some form of prehearing termination during Fiscal Year 2003, (19,853) by the inventory of arbitration cases at the prehearing stage during Fiscal Year 2003. The inventory of cases at the prehearing stage is the sum of the number of arbitration cases pending statewide at the end of Fiscal Year 2002, (6,834) and the number of cases transferred or filed in arbitration during Fiscal Year 2003 (32,638).

terminations and arbitration hearing capacity that enables the system to absorb and process a greater number of cases in less time. In some instances, individual county numbers are even more impressive.

St. Clair County

St. Clair County reported that 2,110 cases were referred to court-annexed mandatory arbitration during Fiscal Year 2003 and 379 cases were pending on the pre-hearing arbitration calendar at the end of Fiscal Year 2002. During Fiscal Year 2003, 1,980 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2003, 80% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2003, 154 arbitration hearings were held in St. Clair County. Therefore, as of June 30, 2003, 6% of the cases on the arbitration pre-hearing calendar progressed to the arbitration hearing.

Winnebago County

During Fiscal Year 2003, Winnebago County reported that 1,377 cases were funneled into the arbitration program. At the end of Fiscal Year 2002, 165 cases were pending on the pre-hearing arbitration calendar.

Prior to the arbitration hearing, 1,302 cases were terminated. Therefore, as of June 30, 2003, 84% of cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

During Fiscal Year 2003, Winnebago County reported that 120 cases progressed to hearing. Therefore, as of June 30, 2003, only 8% of the cases on the pre-hearing arbitration calendar went to hearing.

McHenry County

McHenry County reported that 1,234 cases were transferred or filed as arbitration-eligible during Fiscal Year 2003. At the end of Fiscal Year 2002, 351 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2003, 1,010 cases were disposed in some way prior to the arbitration hearing. Therefore, 64% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

During Fiscal Year 2003, McHenry County held 149 arbitration hearings. Therefore, as of June 30, 2003, only 9% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Lake County

Lake County reported that 3,140 cases were filed in, or transferred to, the arbitration

calendar during Fiscal Year 2003. There were 791 cases pending on the pre-hearing calendar at the end of Fiscal Year 2002. During Fiscal Year 2003, 2,322 cases were disposed prior to their progression to an arbitration hearing. Therefore, as of June 30, 2003, 59% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

Lake County reported conducting 436 hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 11% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Du Page County

Du Page County reported that 4,003 cases were filed in or transferred to the arbitration calendar during Fiscal Year 2003. During Fiscal Year 2003, 3,726 cases were disposed prior to their progression to an arbitration hearing. Therefore, as of June 30, 2003, 67% of the cases on the pre-hearing arbitration calendar were disposed prior to the hearing.

Du Page County reported conducting 536 hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 10% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Kane County

Kane County reported that 1,906 cases were referred to arbitration during Fiscal Year 2003. At the end of Fiscal Year 2002, 87 cases were pending on the pre-hearing arbitration calendar. During Fiscal Year 2003, 1,506 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2003, 76% of the cases on the pre-hearing arbitration calendar were disposed prior to an arbitration hearing.

During Fiscal Year 2003, Kane County conducted 241 arbitration hearings. Therefore, as of June 30, 2003, only 12% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

Boone County

Boone County reported that 116 cases were referred to arbitration during Fiscal Year 2003. At the end of Fiscal Year 2002, 38 cases were pending on the pre-hearing arbitration calendar. In Fiscal Year 2003, prior to the arbitration hearing, 121 cases were disposed. Therefore, as of June 30, 2003, 79% of the cases on the pre-hearing arbitration calendar were disposed prior to the arbitration hearing.

Boone County held 12 arbitration hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 8% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Will County

In Fiscal Year 2003, Will County reported that 2,042 cases were filed or transferred to

arbitration. At the end of Fiscal Year 2002, 786 cases were pending on the pre-hearing calendar. During Fiscal Year 2003, 1,794 pre-hearing dispositions were reported. Therefore, as of June 30, 2003, 63% of all cases filed or transferred into arbitration were disposed prior to the arbitration hearing.

Will County reported that it held 201 hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 7% of the cases on the pre-hearing arbitration calendar progressed to an arbitration hearing.

McLean County

McLean County reported that in Fiscal Year 2003, 1,151 cases were filed or transferred into arbitration. At the end of Fiscal Year 2002, 657 cases were pending on the pre-hearing arbitration calendar. McLean County reported that 995 cases were disposed pre-hearing. Therefore, 55% of the cases filed or transferred into arbitration were disposed pre-hearing.

McLean County reported that it held 117 hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 6% of the cases on the pre-hearing arbitration calendar progressed to hearing.

Ford County

In Fiscal Year 2003, Ford County reported 59 cases were filed or transferred into arbitration. At the end of Fiscal Year 2002, 10 cases were pending on the pre-hearing arbitration calendar. Ford County reported that 50 cases were disposed pre-hearing. Therefore, 72% of the cases in the arbitration program were disposed prior to hearing.

Ford County reported that it conducted 9 arbitration hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 13% of the arbitration-eligible cases progressed to hearing in Ford County.

Rock Island County

In Fiscal Year 2003, Rock Island County reported 717 cases filed or transferred into arbitration. At the end of Fiscal Year 2002, 294 cases were pending on the pre-hearing calendar. Rock Island County reported that 618 cases were disposed pre-hearing. Therefore, 61% of the cases filed or transferred into arbitration were disposed pre-hearing.

Rock Island County reported that it held 83 arbitration hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 8% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Henry County

In Fiscal Year 2003, Henry County reported 107 cases filed or transferred into arbitration. At the end of Fiscal Year 2002, 54 cases were pending on the pre-hearing calendar. Henry

County reported that 114 cases were disposed pre-hearing. Therefore, 71% of the cases filed or transferred into arbitration were disposed pre-hearing.

Henry County reported that it held 15 arbitration hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 9% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Mercer County

In Fiscal Year 2003, Mercer County reported 41 cases filed or transferred into arbitration. At the end of Fiscal Year 2002, 15 cases were pending on the pre-hearing calendar. Mercer County reported that 33 cases were disposed pre-hearing. Therefore, 59% of the cases filed or transferred into arbitration were disposed pre-hearing.

Mercer County reported that it held 2 arbitration hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 4% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Whiteside County

In Fiscal Year 2003, Whiteside County reported 193 cases filed or transferred into arbitration. At the end of Fiscal Year 2002, 79 cases were pending on the pre-hearing calendar. Whiteside County reported that 144 cases were disposed pre-hearing. Therefore, 53% of the cases filed or transferred into arbitration were disposed pre-hearing.

Whiteside County reported that it held 16 arbitration hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, only 6% of the cases filed on the pre-hearing arbitration calendar progressed to hearing.

Cook County

The Cook County statistics differ significantly. During Fiscal Year 2003, 14,442 cases were transferred into the Cook County arbitration program. At the end of Fiscal Year 2002, 1,582 cases were pending on the pre-hearing arbitration calendar. As of June 30, 2003, 4,173 cases were disposed prior to the arbitration hearing. Therefore, as of June 30, 2003, 26% of the cases in the arbitration program in Cook County were disposed prior to the arbitration hearing.

The Cook County program conducted 10,623 hearings during Fiscal Year 2003. Therefore, as of June 30, 2003, 66% of the cases on the pre-hearing arbitration calendar progressed to hearing.

This is a much different picture than the one reported by other counties and can be explained by examining the Cook County arbitration program. As noted above, in Cook County, cases seeking between $5,000 and $50,000 in money damages are filed as Municipal Department cases. Cases within this category that are arbitration-eligible (cases seeking up to $30,000 in money damages) are transferred to arbitration only after all pre-hearing matters have been heard and decided. Statistics are not available on the number of cases that may have been arbitration-eligible but were disposed prior to their transfer to arbitration.

Instead, statistics are available only on those cases which were transferred to arbitration and then were disposed prior to the hearing. This window of time is much shorter than the window of time for which statistics are provided by other counties. Additionally, a number of cases have already been disposed of, meaning the cases transferred have already gone through a substantial review process prior to their transfer to the arbitration program. Therefore, although it appears that fewer cases are disposed prior to an arbitration hearing in the arbitration process in the Cook County system, we cannot be sure that this is true because in Cook County cases are counted substantially later in the process and for a substantially shorter time frame.

In the Circuit Court of Cook County, after preliminary hearing matters are decided and the case has been transferred to arbitration, the clerk of the court will set a date for the arbitration hearing. The clerk of the court waits until 30 days prior to the closure date for discovery before setting the arbitration hearing date to ensure that discovery is closed prior to the arbitration hearing.

In summary, the statistics provided by all programs on cases at the arbitration pre-hearing stage demonstrate that the parties are working to settle their differences without significant court intervention, prior to the arbitration hearing. The arbitration hearings induce these early settlements by forcing the parties to carefully manage the case prior to the arbitration hearing. Because arbitration hearings are held within one year of the filing of the arbitration case or the transfer of the case to the arbitration program, in most counties the circuit court can dispose of approximately 80- 90% of the arbitration caseload within one year of the filing of the case. This case management tool provides swifter dispositions for litigants.

Post-Hearing Calendar

The post-hearing arbitration calendar consists of cases which have been heard by an arbitration panel and are waiting further action. Upon conclusion of an arbitration hearing, a case is removed from the pre-hearing arbitration calendar and added to the post-hearing calendar. Although the arbitration hearing is the primary source of cases added to the post-hearing calendar, cases previously terminated following a hearing may subsequently be reinstated (added) at this stage. However, this is a rare occurrence even in the larger courts.

The arbitration administrators report three types of post-hearing removals from the arbitration calendar: entry of judgment on the arbitration award; some other post-hearing termination of the case including dismissal or settlement by order of the court; or rejection of the arbitration award. While any of these actions will remove a case from the post-hearing calendar, only judgment on the award, dismissal, and settlement result in termination of the case, which are dispositive removals. Post-hearing terminations, or dispositive removals, are typically the most common means by which cases are removed from the post-hearing arbitration calendar.

A rejection of an arbitration award is a non-dispositive removal of a case from the post-hearing arbitration calendar. A rejection removes the case from the post-hearing arbitration calendar and places it on the post-rejection arbitration calendar.

Post-Hearing Statistics

A commonly cited measure of performance for court-annexed arbitration programs is the extent to which awards are accepted by the litigants as the final resolution of the case. However,

parties have many resolution options after the arbitration hearing is concluded. Therefore, tracking the various options by which post-hearing cases are removed from the arbitration inventory gives a more accurate picture of the movement of cases than would looking only at the number of arbitration awards rejected.

When a party is satisfied with the arbitration award, they may move the court to enter judgment on the award. If no party rejects the arbitration award, the court may enter judgment on the award.

Additionally, figures reported show that approximately another 40% of the cases which progress to a hearing were disposed after the arbitration hearing on terms other than those stated in the award. These cases are disposed either through settlement reached by the parties or by dismissals.

These statistics demonstrate that in a significant number of cases which progress to hearing, although the parties may agree with the arbitrator's assessment of the worth of the case, they may not want a judgment entered against them so they work to settle the conflict prior to the deadline for rejecting the arbitration award.

The post-hearing statistics for counties with arbitration programs consisting of judgments entered on the arbitration award[10], settlements reached after the arbitration award and prior to the expiration for the filing of a rejection, are detailed herein.

- ***St. Clair County*** reported the entry of 67 judgments on arbitration awards during Fiscal Year 2003. Therefore, in St. Clair County, 41% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 34 cases were settled prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in St. Clair County, 21% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing settlement.

- ***McHenry County*** reported the entry of 32 judgments on arbitration awards during Fiscal Year 2003. Therefore, in McHenry County, 21% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 25 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in McHenry County, 16% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Lake County*** reported the entry of 130 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Lake County, 26% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 95 cases were either settled or dismissed prior to the expiration for

[10]Judgment on the award statistics are generated by dividing the number of judgments on an arbitration award into the total number of cases on the post-hearing calendar. The total number of cases on the post-hearing calendar is generated by adding the number of cases added during FY2003 to the number of cases pending on the post-hearing calendar as of 07/01/02.

the filing of a rejection. In Fiscal Year 2003 in Lake County, 19% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Du Page County*** reported the entry of 105 judgments on arbitration awards during Fiscal Year 2003. An additional 97 cases were either settled or dismissed prior to the expiration for the filing of a rejection. The statistics for cases pending on the post-hearing calendar as of July 1, 2002, were not available at the time this report was compiled. Therefore, no percentages are available.

- ***Will County*** reported the entry of 66 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Will County 28% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 71 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Will County, 30% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Winnebago County*** reported the entry of 41 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Winnebago County, 33% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 18 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Winnebago County, 15% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Kane County*** reported the entry of 60 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Kane County, 20% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 50 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Kane County, 17% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Boone County*** reported the entry of 3 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Boone County, 25% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. One additional case was either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Boone County, 8% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***McLean County*** reported the entry of 47 judgments on arbitration awards during Fiscal Year 2003. Therefore, in McLean County, 24% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 25 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in McLean County, 13% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Ford County*** reported that 8 cases were added to the post-hearing calendar and all of them received a judgment on the arbitration award entered during Fiscal Year 2003. Therefore, in Ford County, 80% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. One additional case was either settled or dismissed prior to the expiration for the filing of a rejection. Therefore, no cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Rock Island County*** reported the entry of 27 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Rock Island County, 29% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 27 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Rock Island County, 29% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Mercer County*** reported the entry of 2 judgments on an arbitration award during Fiscal Year 2003. Therefore, in Mercer County, 1% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. No cases were either settled or dismissed prior to the expiration for the filing of a rejection.

- ***Henry County*** reported the entry of 7 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Henry County, 44% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 5 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Henry County, 31% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.

- ***Whiteside County*** reported the entry of 4 judgments on arbitration awards during Fiscal Year 2003. Therefore, in Whiteside County, 21% of the cases in which a hearing was held on or before June 30, 2003, were disposed when judgment was entered on the arbitration award. An additional 8 cases were either settled or dismissed prior to the expiration for the filing of a rejection. In Fiscal Year 2003 in Whiteside County, 42% of the cases which proceeded to an arbitration hearing were removed from the post-hearing calendar by a post-arbitration hearing dismissal or settlement.
- ***Cook County*** reported the entry of 2,986 judgments on arbitration awards during Fiscal Year 2003. An additional 4,632 cases were either settled or dismissed prior to the expiration for the filing of a rejection. The statistics for cases pending on the post-hearing calendar as of July 1, 2002, were not available at the time this report was compiled. Therefore, no percentages are available.

As indicated earlier, parties may also reject the arbitration award and proceed to trial. Parties may file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. It's the opinion of the Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference that the rejection rate, when studied alone and out of context, may be a misleading indicator of the actual

success of the arbitration programs.

Rejection rates for arbitration awards varied from county to county. The overall statewide average for the rejection rate was 40% in Fiscal Year 2003.

During Fiscal Year 2003, the mandatory arbitration programs reported the following rejection rates: Boone County, 50%; Cook County, 47%; Du Page County, 59%; Ford County, 11%; Henry County, 20%; Kane County, 54%; Lake County, 51%; McHenry County, 56%; McLean County, 28%; Mercer County, 0%; Rock Island County, 37%; St. Clair County, 32%; Whiteside County, 38%; Will County, 33%; Winnebago County, 47%.

Post-Rejection Calendar

The post-rejection calendar consists of arbitration cases in which one of the parties rejects the award of the arbitrators and seeks a trial before a judge or jury. In addition, cases which are occasionally reinstated at this stage of the arbitration process may be added to the inventory of cases pending post-rejection action. Removals from the post-rejection arbitration calendar are generally dispositive. When a case is removed by way of judgment before or after trial, dismissal, or settlement, it is removed from the court's inventory of pending civil cases.

Post-Rejection Statistics

Although rejection rates are an important indicator of the success of an arbitration program, parties have many resolution options still available after rejecting the arbitration award. As noted above, parties file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. Therefore, a more important number than the rejection rate may be the frequency with which arbitration cases are settled subsequent to the rejection but prior to trial in the circuit court.

Arbitration statistics demonstrate that few arbitration cases proceed to trial even after the arbitration award is rejected.

- In ***Cook County*** (Fiscal Year 2003), of the 4,982 cases placed on the post-rejection calendar, 631 cases were disposed via trial and 2,633 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 4% of the total cases funneled into the arbitration program in Cook County during Fiscal Year 2003 resulted in trial.

- In ***Du Page County*** (Fiscal Year 2003), of the 536 cases placed on the post-rejection calendar, 66 cases were disposed via trial and 245 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 2% of the total cases funneled into the arbitration program in DuPage County during Fiscal Year 2003 resulted in trial.

- In ***Ford County*** (Fiscal Year 2003), one case was placed on the post-rejection calendar and one was settled or dismissed or otherwise disposed and removed from the post-rejection calendar. No cases funneled into the arbitration program in Ford County during Fiscal Year 2003 resulted in trial.

- In ***Winnebago County*** (Fiscal Year 2003), of the 56 cases placed on the post-rejection calendar, 14 cases were disposed via trial and 50 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 1% of the total cases funneled into the arbitration program in Winnebago County during Fiscal Year 2003 resulted in trial.

- In ***Lake County*** (Fiscal Year 2003), of the 229 cases placed on the post-rejection calendar, 64 cases were disposed via trial and 152 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 2% of the total cases funneled into the arbitration program in Lake County during Fiscal Year 2003 resulted in trial.

- In ***McHenry County*** (Fiscal Year 2003), of the 86 cases placed on the post-rejection calendar, 31 cases were disposed via trial and 43 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 3% of the total cases funneled into the arbitration program in McHenry County during Fiscal Year 2003 resulted in trial.

- In ***McLean County*** (Fiscal Year 2003), of the 33 cases placed on the post-rejection calendar, 8 cases were disposed via trial and 13 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means less than 1% of the total cases funneled into the arbitration program in McLean County during Fiscal Year 2003 resulted in trial.

- In ***St. Clair County*** (Fiscal Year 2003), of the 49 cases placed on the post-rejection calendar, 19 cases were disposed via trial and 40 were settled or dismissed or otherwise disposed and removed from the post-rejection calendar. This means only 1% of the total cases funneled into the arbitration program in St. Clair County during Fiscal Year 2003 resulted in trial.

- In ***Kane County*** (Fiscal Year 2003), of the 131 cases placed on the post-rejection calendar, 28 cases were disposed via trial and 97 were settled or otherwise disposed and removed from the post-rejection calendar. This means only 1% of the total cases funneled into the arbitration program in Kane County during Fiscal Year 2003 resulted in trial.

- In ***Will County*** (Fiscal Year 2003), of the 67 cases placed on the post-rejection calendar, 36 cases were disposed of via trial and 56 cases were settled, dismissed or otherwise disposed and removed from the post-rejection calendar. This means that 2% of the total cases funneled into the arbitration program in Will County during Fiscal Year 2003 resulted in trial.

- In ***Boone County*** (Fiscal Year 2003), of the 6 cases placed on the post-rejection calendar, 2 cases were disposed of via trial and 6 cases were either settled or dismissed and removed from the post-rejection calendar. This means that 2% of the cases funneled into the arbitration program in Boone County during Fiscal Year 2003 resulted in trial.

- In ***Rock Island County*** (Fiscal Year 2003), of the 31 cases placed on the post-rejection calendar, 2 cases were disposed of via trial and 33 cases were either settled or dismissed and removed from the post-rejection calendar. This means that 1% of the cases funneled into the arbitration program in Rock Island County during Fiscal Year 2003 resulted in trial.

- In ***Henry County*** (Fiscal Year 2003), of the 3 cases placed on the post-rejection calendar, 2 cases were disposed of via trial and 3 cases were either settled or dismissed and removed from the post-rejection calendar. This means that 2% of the cases funneled into the arbitration program in Henry County during Fiscal Year 2003 resulted in trial.

- In ***Mercer County*** (Fiscal Year 2003), there was no activity on the post-rejection calendar.

- In ***Whiteside County*** (Fiscal Year 2003), 6 cases were placed on the post-rejection calendar and 3 cases were either settled or dismissed and removed from the post-rejection calendar. No cases funneled into the arbitration program in Whiteside County during Fiscal Year 2003 resulted in trial.

These percentages were generated with figures submitted through June 30, 2003. Some cases in which an arbitration award was rejected and the case was transferred to the post-rejection calendar remain pending.

CONCLUSION

Taken together, these figures are convincing evidence that the arbitration system is operating consistent with policy makers' initial expectations for the program.

Statewide figures show that only a small number of the cases filed or transferred into arbitration proceed to an arbitration hearing. Arbitration-eligible cases are resolved and disposed prior to hearing in ways that do not use a significant amount of court time. Court-ordered dismissals, voluntary dismissals, settlement orders and default judgments typically require very little court time to process. Arbitration encourages dispositions earlier in the life of cases, helps the court operate more efficiently, saves the court the expense of costlier proceedings that might have been necessary later, and saves time, energy, and money of the individuals using the court system to resolve their disputes.

Statewide statistics also show that a large number of cases that do proceed to the arbitration hearing are terminated in a post-hearing proceeding when the parties either petition the court to enter judgment on the arbitration award or remove the case from the arbitration calendar via another form of post-hearing termination, including settlement.

Finally, the overall success of the program can be quantified in the fact that a statewide average of only 1% of the cases processed through an arbitration program proceeded to trial in Fiscal Year 2003.

CIRCUIT PROFILES

Eleventh Judicial Circuit

The Supreme Court of Illinois entered an order in March, 1996, allowing both McLean and Ford Counties to begin arbitration programs. Therefore, two counties within the five-county circuit currently use court-annexed mandatory arbitration as a case management tool. The Eleventh Judicial Circuit arbitration program is housed near the McLean County Law and Justice Center in Bloomington, Illinois.

The supervising judge for arbitration in McLean County is Judge Kevin P. Fitzgerald. The supervising judge for arbitration in Ford County is Judge Stephen R. Pacey. The supervising judges are assisted by one administrative assistant for arbitration for both the McLean and Ford County programs.

Twelfth Judicial Circuit

The Twelfth Judicial Circuit is one of only three single-county circuits in Illinois. The Will County Arbitration Center is housed near the courthouse in Joliet, Illinois. According to the 2000 federal census, the county is home to 502,266 residents. Straddling the line between a growing urban area and a farm community, Will County is working to keep current with its increasing caseload.

After the Supreme Court approved its request, Will County began hearing arbitration cases in December of 1995. Judge Richard Siegel is the supervising judge for arbitration in the Twelfth Judicial Circuit. He is assisted by a trial court administrator and an administrative assistant.

Fourteenth Judicial Circuit

The Fourteenth Judicial Circuit is comprised of Rock Island, Henry, Mercer, and Whiteside Counties. This circuit is the most recent to receive Supreme Court approval to begin operating an arbitration program. In November of 1999, the Supreme Court authorized the inception of the program and arbitrations began in October, 2000. Hearings are conducted in an arbitration center located in downtown Rock Island.

The Fourteenth Circuit is the first program to receive permanent authorization to hear cases with damage claims between $30,000 and $50,000. The supervising judge for arbitration is Judge Mark A. VandeWiele.

Sixteenth Judicial Circuit

The Sixteenth Judicial Circuit consists of DeKalb, Kane, and Kendall Counties. During Fiscal Year 1994, the Supreme Court approved the request of Kane County to begin operating a court-annexed mandatory arbitration program. Initial arbitration hearings were held in June, 1995.

Judge Judith M. Brawka is the supervising judge for arbitration in Kane County. She is assisted by an administrative assistant for arbitration.

Seventeenth Judicial Circuit

The Seventeenth Judicial Circuit is located in the northern part of Illinois consisting of

Winnebago and Boone Counties. The arbitration center is located near the courthouse in Rockford, Illinois. In the fall of 1987, court-annexed mandatory arbitration was instituted as a pilot program in Winnebago County, making it the oldest court-annexed arbitration system in the state.

Since its inception, the arbitration program in Winnebago County has consistently processed nearly 1,000 civil cases every year. Judge Timothy R. Gill is the supervising judge for Winnebago County. The Boone County program, which began hearings in February, 1995, is supervised by Judge Gerald F. Grubb. The supervising judges are assisted by an arbitration administrator and an assistant administrator for arbitration.

Eighteenth Judicial Circuit

The Eighteenth Judicial Circuit is a suburban jurisdiction serving the residents of Du Page County. Located west of Chicago, Du Page is one of the fastest growing counties in the state and the third most populous judicial circuit in Illinois. The continuing increase in population creates demands on the public services in the county. The circuit court has strived to keep pace with those demands in order to provide services of the highest quality. Court-annexed arbitration has become an important resource for assisting the judicial system in delivering those services.

The Supreme Court approved an arbitration program for the circuit in December, 1988. On January 1, 1997, a pilot program was instituted for cases with money damages seeking up to $50,000. During Fiscal Year 2002, the Supreme Court authorized DuPage County to permanently operate at the $50,000 jurisdictional limit. Judge Kenneth A. Abraham is the supervising judge for arbitration. He is assisted by an arbitration administrator and administrative assistant, who help ensure the smooth operation of the program.

Nineteenth Judicial Circuit

Lake and McHenry Counties combine to form the Nineteenth Judicial Circuit. This jurisdiction ranks as the second most populous judicial circuit in Illinois, serving 904,433 citizens. Lake County sought Supreme Court approval to implement an arbitration program and that approval was granted in December, 1988.

As in the other circuits, the arbitration caseloads are assigned to a supervising judge. During Fiscal Year 2003, Judge Emilio B. Santi served as the supervising judge for arbitration in Lake County. He is assisted by an arbitration administrator and an administrative assistant. Arbitration hearings are conducted in a facility across the street from the Lake County Courthouse in downtown Waukegan.

Late in 1990, the Supreme Court was asked to consider the Nineteenth Judicial Circuit's request to expand the arbitration program into McHenry County. That request was approved. The Nineteenth Judicial Circuit was the first multi-county circuit-wide arbitration program in Illinois. Although centrally administered, the arbitration programs in Lake and McHenry Counties use their own county-specific group of arbitrators to hear cases.

Judge Maureen P. McIntyre serves as the supervising judge in McHenry County. Arbitration hearings are conducted in the McHenry County Courthouse in Woodstock. The arbitration administrator and administrative assistant in Lake County administer the program in McHenry County as well.

Twentieth Judicial Circuit

The Twentieth Judicial Circuit is comprised of five counties: St. Clair, Perry, Monroe, Randolph and Washington. This circuit is located in downstate Illinois and is considered a part of the St. Louis metropolitan area. Circuit population is 355,836 according to the 2000 federal census.

The Supreme Court approved the request of St. Clair County to begin an arbitration program on May 11, 1993. The first hearings were held in February, 1994. This circuit is the first and only circuit in the downstate area to have an arbitration program.

The arbitration center is located across the street from the St. Clair County Courthouse. Judge Jan V. Fiss is the supervising judge. He is assisted by an arbitration administrator and an administrative assistant, who oversee the program's operations.

Circuit Court of Cook County

As a general jurisdiction trial court, the Circuit Court of Cook County is the largest unified court in the nation. Serving a population of more than 5.3 million people, this court operates through an elaborate system of administratively created divisions and geographical departments.

The Supreme Court granted approval to implement an arbitration program in Cook County in January, 1990, after the Illinois General Assembly and the Governor authorized a supplemental appropriation measure for the start-up costs. Cases pending in the circuit's Law Division were initially targeted for referral to arbitration and hearings for those cases commenced in April, 1990. Today, the majority of the cases transferred to arbitration are Municipal Department cases.

The Cook County program is supervised by Judge E. Kenneth Wright, Jr. and day-to-day operations are managed by an arbitration administrator and deputy administrator.

Administrative Office of the Illinois Courts

The Administrative Office of the Illinois Courts (AOIC) works with the circuit courts to coordinate the operations of the arbitration programs throughout the state. The administrative staff assists in establishing new arbitration programs that have been approved by the Supreme Court. Staff also provide other support services such as drafting local rules, recruiting personnel, acquiring facilities, training new arbitrators, purchasing equipment and developing judicial calendaring systems.

The AOIC also assists existing programs by preparing budgets, processing vouchers, addressing personnel issues, compiling statistical data, negotiating contracts and leases, and coordinating the collection of arbitration filing fees. The office also monitors the performance of each program. In addition, AOIC staff act as liaison to Illinois Judicial Conference committees, bar associations and the public.

FISCAL YEAR 2003

PRE-HEARING CALENDAR

ARBITRATION CENTER	CASES PENDING HEARING 07/01/02 AS REPORTED	CASES REFERRED TO ARBITRATION	TOTAL CASES ON CALENDAR	PRE-HEARING DISPOSITIONS	PERCENT OF CASES ON PRE-HEARING CALENDAR DISPOSED PRIOR TO ARBITRATION HEARING	ARBITRATION HEARINGS	PERCENTAGE REFERRED TO HEARING	CASES PENDING HEARING 06/30/03
Boone	38	116	154	121	79%	12	8%	94
Cook	1,582	14,442	16,024	4,173	26%	10,623	66%	1,228
DuPage	1,546	4,003	5,549	3,726	67%	536	10%	N/A
Ford	10	59	69	50	72%	9	13%	10
Henry	54	107	161	114	71%	15	9%	49
Kane	87	1,906	1,993	1,506	76%	241	12%	246
Lake	791	3,140	3,931	2,322	59%	436	11%	974
McHenry	351	1,234	1,585	1,010	64%	149	9%	426
McLean	657	1,151	1,808	995	55%	117	6%	696
Mercer	15	41	56	33	59%	2	4%	21
Rock Island	294	717	1,011	618	61%	83	8%	310
St. Clair	379	2,110	2,489	1,980	80%	154	6%	355
Whiteside	79	193	272	144	53%	16	6%	110
Will	786	2,042	2,828	1,794	63%	201	7%	833
Winnebago	165	1,377	1,542	1,302	84%	120	8%	120

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000.
The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, Whiteside, and Winnebago Counties is $50,000.
The monetary jurisdictional limit for arbitration cases filed in St. Clair County is $20,000.

FISCAL YEAR 2003

POST-HEARING CALENDAR

ARBITRATION CENTER	CASES PENDING ON POST HEARING CALENDAR 07/01/02 AS REPORTED	CASES ADDED	JUDGMENT ON AWARD	POST-HEARING PRE-REJECTION DISPOSITION DISMISSED	AWARDS REJECTED	AWARDS REJECTED AS A PERCENTAGE OF HEARINGS	TOTAL CASES IN SYSTEM AS A PERCENTAGE OF ALL WHICH WERE REJECTED AS OF JUNE 30, 2003	CASES PENDING 06/30/03
Boone	0	12	3	1	6	50%	5%	2
Cook	N/A	10,623	2,986	4,632	4,982	47%	34%	N/A
DuPage	N/A	536	105	97	315	59%	8%	N/A
Ford	1	9	8	0	1	11%	2%	1
Henry	1	15	7	5	3	20%	3%	1
Kane	52	241	60	50	131	54%	7%	52
Lake	67	438	130	95	223	51%	7%	57
McHenry	6	149	32	25	84	56%	7%	14
McLean	76	120	47	25	33	28%	3%	91
Mercer	0	2	2	0	0	0%	0%	0
Rock Island	9	83	27	27	31	37%	4%	7
St. Clair	11	154	67	34	49	32%	2%	15
Whiteside	3	16	4	8	6	38%	3%	1
Will	36	201	66	71	67	33%	3%	33
Winnebago	4	120	41	18	56	47%	4%	9

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000.
The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, Whiteside, and Winnebago Counties is $50,000.
The monetary jurisdictional limit for arbitration cases filed in St. Clair County is $20,000.

FISCAL YEAR 2003

POST-REJECTION CALENDAR

ARBITRATION CENTER	CASES PENDING ON POST-REJECTION CALENDAR 07/01/02 AS REPORTED	CASES ADDED	PRE-TRIAL POST-REJECTION DISPOSITIONS DISMISSALS	TRIALS	PERCENT OF TOTAL CASES ON PRE-HEARING CALENDAR PROGRESSING TO TRIAL THROUGH 6/30/03	CASES PENDING 06/30/03
Boone	4	6	6	2	2%	2
Cook	N/A	4,982	2,633	631	4%	1,718
DuPage	266	536	245	66	2%	225
Ford	0	1	1	0	0%	0
Henry	4	3	3	2	2%	2
Kane	151	131	97	28	1%	157
Lake	98	229	152	64	2%	111
McHenry	29	86	43	31	3%	41
McLean	13	33	13	8	1%	25
Mercer	0	0	0	0	0%	0
Rock Island	29	31	33	2	1%	25
St. Clair	47	49	40	19	1%	37
Whiteside	3	6	3	0	0%	6
Will	61	67	56	36	2%	36
Winnebago	38	56	50	14	1%	30

Jurisdictional Limits:

The monetary jurisdictional limit for arbitration cases filed in Cook and Will Counties is $30,000.
The monetary jurisdictional limit for arbitration cases filed in Boone, DuPage, Ford, Henry, Kane, Lake, McHenry, McLean, Mercer, Rock Island, Whiteside, and Winnebago Counties is $50,000.
The monetary jurisdictional limit for arbitration cases filed in St. Clair County is $20,000.

APPENDIX 2

APPENDIX 2

Court-Sponsored Major Civil Case Mediation Statistics

Fiscal Year 2003

Judicial Circuit	Full Agreement		Partial Agreement		No Agreement		Total Cases Mediated
	#	%	#	%	#	%	
***Eleventh** (Ford & McLean)	4	44%	1	12%	4	44%	9
****Twelfth** (Will)	**		**		**		**
Fourteenth (Henry, Mercer, Rock Island & Whiteside)	19	48%	1	2%	20	50%	40
Sixteenth (Kane)	63	47%	9	7%	62	46%	134
Seventeenth (Winnebago & Boone)	44	59%	0	0%	30	41%	74
*****Eighteenth** (DuPage)	4	66%	1	17%	1	17%	6
******Nineteenth** (Lake & McHenry)	55	67%	1	1%	26	32%	82
Total/Overall %	189	55%	13	4%	143	41%	345

* A total of (19) cases were referred to mediation. In addition to the statistics above: (10) cases are pending mediation.

** No Civil Case mediations were reported in Fiscal Year 2003.

*** (2) additional cases are pending mediation. (2) additional cases have been dismissed/settled. These cases only reflect the cases referred by court order and may not reflect the total number of cases being mediated in the 18th Judicial Circuit.

**** A total of (116) cases were referred to mediation. In addition to the statistics above: (27) cases are pending trial, (4) cases were removed from mediation, and (3) cases were dismissed.